IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4372 OF 2006

Kumar Murlidhar Jagtap .. Applicant

Versus

State of Maharashtra .. Respondent

Mrs.Teja Katdare with Ms.Alpa Javeri for applicant

Mr.P.A.Pol, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 19th December 2006

P.C.

. Applicant apprehends arrest in connection with C.R.No.111 of 2006 registered with Wai

police station.

2. Offences alleged are punishable under section 376 and 506 I.P.C.

3. Prosecutrix has alleged that she was working at S.T.D. Booth which belongs to the family of present applicant. She was working there for 5 to 6 months and that is how she was acquainted with the applicant. It is her case that the applicant assured her that they would shortly marry each other and that is how she left the job and started residing at her residence. The applicant is alleged to have had sexual relations with prosecutrix from the year 2000 and it is her case that the same were under the assurances and having regard to the relationship between the parties. It appears that it was a love affair. Applicant states that on the own showing of the prosecutrix relations were with consent and were going on for quite some years.

Merely because the marriage did not go through that a false complaint has been filed belatedly.

4. My attention is invited by Mrs.Katdare to the annexures to this application and the statement of prosecutrix recorded on 15th February 2006 and 17th February 2006.

5. Learned A.P.P. on the other hand states that offence alleged is serious. Prosecutrix is pregnant and presently admitted to Sasoon Hospital, Pune. He submits that the prosecutrix apprehends threats from the present applicant and his family members. She is residing in Wai city. In such circumstances and considering the nature of offence, the application be rejected.

6. Having perused the statements of prosecutrix and considering her specific case that relations have been going on for past seven years so also with her consent and she being a

major, that the application deserves to be granted with stringent conditions. There is substance in the contention of the applicant that F.I.R. is lodged belatedly and if there was any substance in the grievance, the prosecutrix would not have waited for such a long period. She has filed other complaints with a view to harass the present applicant. In my view, considering the peculiar facts of this case, custodial interrogation of the applicant is not necessary. The applicant shall extend all cooperation in the investigation of crime and with stringent conditions being imposed, this application can be granted. Hence following order:-

i) In the event of the arrest of the applicant in connection with C.R.No.111 of 2006 registered with Wai Police Station, the applicant shall be enlarged on bail in the sum of Rs.20,000/- with

one or two sureties in the like amount.

ii) The bail is granted subject to condition that the applicant will attend the Wai police station once a week on every Saturday between 5.00 p.m. and 7.00 p.m. till filing of charge sheet and thereafter as directed by Trial Court. Applicant shall extend all cooperation in the investigation including making himself available for medical examination, if necessary.

iii) Bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the police officer/

investigating agency. The applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial

v) This order will enure to the benefit of the applicant only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)